

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTOPHER A. WRIGHT,

Defendant-Appellant.

UNPUBLISHED

April 15, 2003

No. 238089

Oakland Circuit Court

LC No. 99-169683-FH

Before: Jansen, P.J. and Kelly and Fort Hood, JJ.

PER CURIAM.

Defendant appeals by delayed leave granted his plea-based convictions for OUIL causing death, MCL 257.625(4), two counts of OUIL causing serious injury, MCL 257.625(5), and two counts of second-degree child abuse, MCL 750.136b(3). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant asserts that the trial court abused its discretion in denying his motion to withdraw his guilty plea after sentencing. MCR 6.311. A trial court's decision on a motion to withdraw a plea is reviewed for abuse of discretion. *People v Wilhite*, 240 Mich App 587, 594; 618 NW2d 386 (2000). A defendant can show that the withdrawal of a plea is in the interest of justice if the plea was the product of fraud, duress, or coercion. *People v Jackson*, 203 Mich App 607, 613; 513 NW2d 206 (1994). Where a defendant claims that his plea was based on erroneous legal advice, and a proffer of proof is made, the defendant may be entitled to an evidentiary hearing. *Id.*, 612. However, courts will generally reject assertions that undisclosed promises were made where the defendant has sworn on the record that no promises were made. *Id.*

Defendant swore on the record that the plea was not the result of undisclosed promises. Where defendant only provided his post-conviction allegation in support of his motion, the trial court did not err in denying his motion to withdraw the plea. *Id.*

There is no showing that defendant's plea was involuntary. Defendant pleaded guilty based on the representation that his sentence would be within the guidelines. No specific range had been calculated, and defendant was aware that the guidelines scoring was in dispute. The court's comment that defendant could be sentenced in excess of the guidelines was a response to defendant's argument that he could be sentenced beneath the guidelines range, and it was not a coercive attempt to secure a guilty plea.

Defendant also asserts that several guidelines variables were erroneously scored. The scoring of a particular factor is a question of fact that is reviewed for clear error. *People v Babcock*, 244 Mich App 64, 75-76; 624 NW2d 479 (2000).

PRV 7 was properly scored at twenty points. The statute provides for the scoring of subsequent or concurrent convictions. MCL 777.57. There is no statutory exclusion for convictions arising out of the same transaction. *People v Harmon*, 248 Mich App 522, 532; 640 NW2d 314 (2002). OV 3 was properly scored at twenty-five points based on serious injuries to several victims. MCL 777.33 addresses injuries to a victim, and is not limited to one specific victim. The court properly scored OV 18 at fifteen points, based on defendant having a blood alcohol level between .15 and .20 grams per milliliter of blood. From prior hearings, the court was appraised of tests results from defendant's hospital admission, and could rely on that information in sentencing.

Affirmed.

/s/ Kathleen Jansen
/s/ Kirsten Frank Kelly
/s/ Karen M. Fort Hood